

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MANUEL DE JESUS ROBLES-OJEDA,
Petitioner,
vs.
UNITED STATES OF AMERICA,
Respondent.

CASE NO. 11-CV-1599-H
10-CR-0384-H

**ORDER DENYING MOTION
FOR A CERTIFICATE OF
APPEALABILITY**

On June 7, 2010, this Court sentenced Petitioner Manuel de Jesus Robles-Ojeda (“Petitioner” or “Defendant”) to 46 months of custody for attempted entry after deportation in violation of 8 U.S.C. § 1326. (Doc. No. 19.) On July 19, 2011, Petitioner filed a motion to vacate his sentence pursuant to 28 U.S.C. § 2255. (Doc. No. 20.) On November 9, 2011, the Court denied Petitioner’s claim for relief under 28 U.S.C. § 2255. (Doc. No. 30.) On December 5, 2011, Petitioner filed a notice of appeal (Doc. No. 31) along with a motion for certificate of appealability. (Doc. No. 32.)

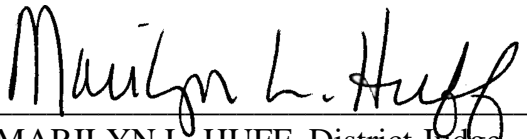
Under AEDPA, a state prisoner seeking to appeal a district court's denial of a habeas petition must obtain a certificate of appealability (“COA”) from the district judge or a circuit judge. 28 U.S.C. § 2253(c)(1)(A). A COA may issue only if the applicant has made “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues

1 presented are adequate to deserve encouragement to proceed further.” Miller-El v. Cockrell,
2 537 U.S. 322, 327 (2003).

3 Here, Petitioner pleaded guilty pursuant to a written plea agreement to an Indictment
4 charging Petitioner with one count of attempted entry after deportation in violation of 8 U.S.C.
5 § 1326 (a) and (b), and was sentenced to 46 months of custody. The court has reviewed the
6 claims in the habeas petition and assessed their merits, and concluded that the petition should
7 be denied. (Doc. No. 30.) Petitioner has failed to make a “substantial showing of the denial
8 of a constitutional right.” 28 U.S.C. § 2253(c)(2). Accordingly, the Court denies Petitioner’s
9 request for a certificate of appealability.

10 **IT IS SO ORDERED.**

11 DATED: December 9, 2011

12 
13 MARILYN L. HUFF, District Judge
14 UNITED STATES DISTRICT COURT

15 COPIES TO:

16 Manuel de Jesus Robles-Ojeda
17 Register No. 18303-298
18 FCI Schuylkill,
Federal Correctional Institution
P.O. Box 759
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